

Summary of 8-20-12 interview of Cheryl Taylor¹

Interview and summary by Thomas M. Patton, Deputy Attorney General

Background

Cheryl Taylor has worked for the state over thirty years. She started in 1981 with the Department of Consumer Affairs, and later worked at the State Treasurer's Office and the Department of Conservation's Division of Recycling. In 1990 she began working as a staff services analyst with Caltrans. She worked in various Caltrans budget positions within central administration and in maintenance from 1990 to 2008, and reports that David Saxby was her boss for much of that time. (Cheryl Taylor 8-20-12 interview transcript (CTtr), pp. 8-21.)

In 2008 Taylor left Caltrans and became chief budget officer at the Department of Parks and Recreation. Taylor had responded to an announcement for the position that Parks deputy director of administrative services Manuel Lopez had sent to her attention at Caltrans. Taylor states that she was interviewed by Lopez, administrative services assistant deputy director Olaya Paschal (now Slaughterback), and chief deputy director Michael Harris. (CTtr, pp. 19-21.)

Disparities in and Changes to Balances Reported for the State Parks and Recreation Fund

Taylor stated that state agency accounting offices must submit fiscal year-end statements to the State Controller's Office (SCO), must reconcile their statements to the balances reflected in the SCO's records, and that either the SCO or agency accounting offices must submit those same year-end cash balance statements to the Department of Finance (DOF).² (CTtr, pp. 43-44.)

¹ Taylor was accompanied during her interview by a Cheryl McNulty. (CTtr, p. 2)

² Taylor's claim that year-end cash balances reported to the SCO must also be sent to the DOF appears incorrect. Exhibits E, F, G, and H attached hereto are four DOF memos to department budget officers comparing fiscal year-end balances reported to the SCO and DOF at the end of the fiscal years in 1997, 1998, 2001, and 2002. Exhibit I hereto is an internal DOF email of October 19, 2006, from Veronica Chung-Ng to Linda Sebastiani referencing the DOF "Fund Balance Differences" memo of June 5, 2003, asking why the DOF stopped sending such memos, and Sebastiani's response: "We stopped because the SCO has been unable to provide us with the file containing their balances." It thus appears that, contrary to Taylor's claim, as of fiscal year 2002-03 the SCO stopped sending the DOF reported year-end cash balances and the DOF did not otherwise obtain those cash balance reports. AB 1487, effective September 17, 2012, now requires that the SCO annually provide the Governor a "statement of the funds of the state," and that the year-end fund balances reported to the DOF and SCO be compared and reconciled.

After first suggesting that fiscal year-end cash balance reports to the SCO were also provided to the DOF, Taylor more accurately indicated the opposite by observing that agency accounting offices send accounting reports to the SCO, while agency budget offices prepare budget documents [for the DOF], and that: “What has happened is nobody’s looking at those documents, nobody was looking at Parks to see if what Controller’s said was in the account versus what we [the Parks budget office] said we had in the account.” (CTtr, pp. 46-47.)

Next, Taylor described a fund condition statement prepared by the budget office for the DOF as an Excel spreadsheet that looks like a bank account. She stated a necessary component of a fund condition statement is the year-end financial statement provided to the SCO, as that statement identifies the year-end account balance and is the starting point for building the budget. The fund condition statement also reflects anticipated revenue and expenditures. Taylor explained that for the State Parks and Recreation Fund (SPRF), what the Department did was simply under-report in the fund condition statement the actual cash balance that had been correctly reported in the year-end financial statement to the SCO. (CTtr, pp. 47-52, 72-73.)

Taylor stated that in 2008 she noticed the disparity in the SPRF balances reported to the DOF versus the SCO after the accounting office provided her the year-end account statement and while she was working on the upcoming 2009-10 budget. She recalled that Marilyn Evans-Jones, whom Taylor hired in April 2008 from the Department of Water Resources, was working on the SPRF fund condition statement spreadsheet for the next fiscal year.³ Evans-Jones was using the year-end balance numbers obtained from accounting, and could not get the numbers to “tie out correctly,” as they were reflecting a much bigger balance than was reflected in the prior year’s fund condition statement to the DOF. (CTtr, pp. 52-53, 72, 77.)

Taylor recalled that Evans-Jones researched the budgets submitted in previous years and identified that the SPRF fund balances reported to the DOF were significantly lower than the actual cash balances reflected in corresponding year-end reports to the SCO. Taylor was uncertain how large the disparity was in prior years, but thought it was \$10 or \$15 million. She stated she believed it has since been hovering around \$20 million or more. (CTtr, pp. 72-75.)

³ Evans-Jones assisted with the SPRF budget and was the assistant budget officer under Taylor known as the support budget manager. Another assistant budget officer is referred to as the capital outlay manager and works on capital improvement project budgets. (CTtr, pp. 79-80.)

Taylor reports that she and Evans-Jones consulted with Jason Summers, the support budget manager prior to Evans-Jones, to determine if Evans-Jones was doing something wrong with the fund condition spreadsheet. Taylor states that Summers reviewed the fund condition spreadsheet Evans-Jones was working on, and Summers smiled and said, “yes.” Taylor reports they asked Summers what was wrong with it, and Summers responded: “If I tell you I’ll have to kill you.” Taylor states that Summers told them to go talk with former budget officer and current administrative services deputy director Manuel Lopez, and so they did. (CTtr, pp. 53, 79-80.)

Taylor reports that when she and Evans-Jones showed Lopez the draft fund condition spreadsheet Evans-Jones had worked up with its discrepancies as compared to previous fund condition statements, Lopez said “oh, no, you can’t report that number.” Taylor states that Lopez told Evans-Jones to email the spreadsheet to him, that Evans-Jones did so, and that Taylor and Evans-Jones then sat in Lopez’s office while he personally revised the SPRF fund condition numbers in the Excel spreadsheet to what he wanted them to be.⁴ Taylor stated she does not know specifically what Lopez changed, but the net result was to understate the balance in the SPRF. Taylor reports that Lopez then returned the spreadsheet to them, and that either Taylor or Evans-Jones transmitted the spreadsheet as revised by Lopez to an analyst at the DOF whom Taylor identified as Maria Annyou.⁵ (CTtr, pp. 53, 81-82, 86-89, 91, 136.)

Taylor advised that she did not speak with anyone else about the adjustment made to the SPRF fund condition statement. When asked if she considered bringing the matter to the

⁴ Taylor’s statement and specific recollection that Lopez personally made changes to an Excel spreadsheet containing a SPRF fund condition statement does not comport with the statements of either Evans-Jones or Lopez. Evans-Jones specifically recalled that she, and not Lopez, made the changes to the SPRF fund condition spreadsheet at Lopez’s direction. (Marilyn Evans-Jones 9-21-12 interview transcript, pp. 22-25.) Likewise, Lopez did not dispute that he directed the SPRF fund condition statement be revised to be consistent with the previous fund condition statement, but (consistent with Evans-Jones’ statements) Lopez stated that he did not recall making any changes himself and that Evans-Jones handled the physical data entry. (Manuel Lopez 9-28-12 interview transcript, pp. 170-173.)

⁵ Taylor stated she believes that the prior version of the SPRF fund condition spreadsheets Evans-Jones worked on would likely still be on Evans-Jones’ computer or on a shared drive denominated the R or S drive utilized by all budget staff at Parks. (CTtr, pp. 87-88.)

attention of chief deputy director Michael Harris, Taylor said she had not. When asked why, Taylor explained:

I've been in meetings where it was discussed about this SPRF fund. They know how much money was sitting in SPRF.

(CTtr, p. 91.)

Budget Meetings with Ruth Coleman and Michael Harris:

Taylor's theory that a percentage of excess SPRF funds were annually secreted and that Coleman and Harris were aware of undisclosed SPRF monies.

In an April 12, 2012, interview conducted during an investigation into the vacation buy-out matter, Cheryl Taylor claimed that Harris and Coleman were aware of the underreporting. (Murphy/Nowicki Interview of Cheryl Taylor, April 12, 2012, p. 40.) The present interviewer also discussed with Taylor the topic of meetings "where it was discussed about this SPRF fund" and that "they know how much money was sitting in SPRF." Taylor described "pre-meetings" she attended at Parks with Coleman, Harris, and Lopez, in preparation for budget hearings before the Legislature. (CTtr, pp. 91-97.) When asked if she remembered the topic of undisclosed SPRF monies ever being discussed in such a meeting, Taylor indicated she did not. Taylor stated that what she recalled was management discussing the need to maintain a 60/40 ratio of general fund to SPRF monies, and not losing ground with general fund appropriations, because SPRF revenues can go down in a bad year. (CTtr, pp. 98-100.)

When it was pointed out that Taylor had not touched upon any discussion among Coleman or Harris of undisclosed SPRF monies, Taylor then described a scenario that involved secreting away year-by-year some percentage of SPRF revenues that came in above projections. Taylor explained that park visitation and revenue projections were reported by Mary Veliquette, and stated that if those projections were obtained it would be seen that Parks "made 104 percent of what they thought they would make." Taylor further stated she did not know what that four percent would calculate to. (CTtr, pp. 100-101.)

Taylor then accurately estimated that the SPRF received \$70 to \$80 million per year in fee revenue, and a revenue report was reviewed that indicated \$82 million in fee revenue was brought in during fiscal year 2010-11. After some rough calculations it was agreed that four percent of \$82 million was something over \$3 million but certainly not the \$20 million in

undisclosed SPRF monies at issue. (CTtr, pp. 102-110.) Taylor then advised that the \$20 million in undisclosed SPRF funds were due to this excess SPRF revenue incrementally building and not being disclosed “for twelve years.” (CTtr, pp. 111-112.)

A DOF spreadsheet reflecting disparities in the SPRF fund balances reported to the DOF and SCO from 1998 to 2011 was then reviewed.⁶ It was pointed out to Taylor that the DOF spreadsheet indicates approximately \$20 million or more in SPRF funds had not been disclosed to the DOF going back as far as fiscal year ending 2000. Taylor expressed surprise to see that the disparity in SPRF fund balance reports had, for years, been at or above \$20 million dollars, commenting: “Wow . . . it’s been there a while.” It was evident that the data did not support her theory and assertion that a small percentage of surplus SPRF revenue had incrementally been secreted away over the preceding twelve years until it grew into a stockpile of \$20 million in undisclosed funds.⁷ (CTtr, pp. 115-117.)

After these facts were reviewed, Taylor was specifically asked what caused her to conclude that Ruth Coleman knew of the undisclosed SPRF funds, and Taylor responded: “I’m speculating.” (CTtr, p. 120.) Taylor then suggested there may have been a meeting that included a fiscal analyst, Brendon Murphy, that touched upon the subject “why we didn’t want to disclose our full account of the SPRF.” However, Taylor then again immediately stated that she was

⁶ The DOF provided this interviewer a spreadsheet on July 26, 2012, reflecting differences in balances reported to the DOF and SCO for the SPRF and OHV funds from 1998 to 2011. A \$49.8 million dollar discrepancy in the SPRF balance reports for fiscal year ending 2001 was indicated in that original DOF spreadsheet reviewed during Taylor’s interview. (CTtr, p. 115.) It was later determined that the spreadsheet contained an error and overstated the SPRF adjusted cash balance at the close of the fiscal year in 2000-01 by \$27 million. DOF produced a corrected spreadsheet on September 7, 2012, which indicates that the discrepancy in SPRF balance reports to the DOF and SCO at the close of fiscal year 2000-01 was \$22.8 million and not \$49.8 million. (See Exhibit A.)

⁷ In addition, actual versus projected SPRF revenue records for fiscal years ending 2001 through 2011 indicate the scenario Taylor described of stockpiling some four percent of excess SPRF revenues per year was not possible. Records show that revenues did not exceed projections in six of the eleven years (FYs ending in 2001, 2004, 2006, 2007, 2008, and 2009), exceeded projections by less than one million and thus less than a percent in three of the years (FYs ending in 2002, 2005, and 2010), exceeded projections by \$2.3 million in one year (FY ending in 2011), and exceeded projections by \$7.9 million and thus by more than four percent in only one year (FY ending in 2003.) Thus the opportunity to secret away four percent of surplus SPRF revenue, as Taylor suggested was done over the past decade, existed in only one of the past eleven years. (See Exhibit L attached.)

speculating. (CTtr, p. 120.) When further pressed as to whether she had ever discussed the undisclosed SPRF funds and balance disparity with Coleman or Harris, Taylor indicated she had not. (CTtr, pp. 121-123.) When asked if she had any information that caused her to conclude Coleman or Harris was aware of the undisclosed funds, Taylor provided no such information. Taylor ultimately and repeatedly revealed that her conclusions were not based upon any direct information, but simply based on hearsay and Taylor's own speculation.⁸ (CTtr, pp. 125-132.)

Taylor's discussion of the SPRF disparity with an unknown caller in January 2012

This interviewer and Taylor next discussed an amended declaration executed by Taylor and submitted by attorney Elisa J. Stewart in a civil matter to which Taylor is not a party, *Velazquez v. California Department of Parks and Recreation and Manuel Lopez*. The declaration was submitted in support of plaintiff's motion to disqualify the Attorney General's Office from representing the defendant Department of Parks and Recreation.⁹ In paragraph 13 of the original declaration dated July 3 and filed August 12, 2012, Taylor stated:

In 2011, I was asked to come in for an interview with Jennifer Comilang of the Department of Parks and Recreation and Corrine [sic] Lee Murphy of the Attorney General's Oice [sic]. They asked me if I was aware of any inappropriate use of funding by Mr. Lopez. I told them that I was aware of the under reporting of funds but that [sic] was directed by Mr. Lopez not to report this information. I also told them about Ms. Evans-Jones reporting a 20 million dollar suiplus [sic] to Mr. Lopez, that the budget tume [sic] out to be accurate and that Mr. Lopez nonetheless directed Ms. Evans-Jones to be removed from her out of class position.

(Attached Exhibit N.)

The motion recites that a revised declaration of Cheryl Taylor was submitted "to correct an inadvertent error pertaining to a date in paragraph 13 [of the original Taylor declaration]." The accompanying revised declaration of Cheryl Taylor dated "August It [sic] 2012," provides in paragraphs 1 and 2 that paragraph 13 of Taylor's original declaration errantly recited that Taylor met with Comilang and Murphy in 2011 but that Taylor in fact met with them in April 2012.

⁸ Taylor then returned to her theory that Coleman and Harris knew the Department was not accurately reporting, and was instead incrementally secreting a portion of excess SPRF revenues each year, and that this was how a stockpile of excess SPRF monies grew. (CTtr, p. 132.)

⁹ The motion and accompanying original and amended declaration of Cheryl Taylor are attached hereto as Exhibit N.

Murphy's email of April 2, 2012, confirms that Murphy scheduled a meeting with Taylor for April 12, 2012. (See attachment to Exhibit N.) A transcript of Murphy's April 12, 2012 interview with Taylor reveals that Murphy was accompanied by Angela Nowicki, a law enforcement investigator with the Parks Department, and not by Jennifer Comilang.

Taylor's amended declaration then added a paragraph 3 where Taylor stated:

I also had a meeting On [sic] or about January of 2012 with an individual who I recall told me they were from the Department of Justice. The individual called me on the phone while [sic] was at work and we spoke at length about whether or not former Deputy Director Manuel Lopez would have access to funds that were in the Department's budget without going through the Legislature. I provided this individual with the infomiation [sic] they requested and explained the budget in great detail in order to answer the questions. I also advised this individual that I was aware that funds were being under reported but that I was directed by Mr. Lopez not to repOrt [sic] this information. I recall the timing and content of this this [sic] conversation because it happened within day [sic] of the Governor's 2012 budget being released.

(Attached Exhibit N.)

Taylor advised that she executed the amended declaration because she realized the 2011 date was wrong and she had backup emails showing the meeting was in April 2012. (CTtr, p. 146.) Taylor was then asked what caused her to include the new paragraph 3 in the amended declaration, which Taylor reported the plaintiff's attorney had prepared, stating that Taylor had a phone conversation with an unidentified person in January 2012. Taylor stated:

You know, because the attorney had asked me before, which I told her I don't even remember what day it was, and I didn't remember a name, because she said, well, we didn't put it in your first declaration. I still don't remember who it was or when it was. So she was – I think she was just trying to see if I had, like, any more e-mail notes or phone logs or anything, which I don't. I have nothing to go on with that because I didn't – I spoke to the person that one day, and then that was it.

(CTtr, pp. 141, 147.)

Taylor was then asked what made her think the anonymous female caller she spoke with was with the Department of Justice. Taylor responded: "It might not have been. It might have

been somebody involved in this other investigation. I – that’s what I told them [the plaintiff’s attorneys]; I don’t remember.” (CTtr, p. 150.)

Taylor confirmed that when she was interviewed by Deputy Attorney General Corinne Lee Murphy on April 12, 2012, Murphy identified herself and provided Taylor a business card during the interview. (CTtr, pp. 144, 151.) When asked whether the plaintiff’s attorneys had suggested the unidentified caller was from the Department of Justice, Taylor stated “no,” and then stated she had informed the plaintiff’s attorneys: “I said I don’t even remember where they were from, yeah.” (CTtr, pp. 152-153.)

Taylor then recounted she had a very long conversation with an unknown person in January 2012 about sensitive matters relating to the Parks Department’s finances, and confirmed she has no recollection or notes as to who the person was. (CTtr, p. 153.) Taylor then indicated she believed the person stated they were “from the AG’s office,” and claimed she knows it wasn’t somebody from Parks because she would have remembered. (CTtr, p. 154.) Taylor next confirmed that the first time she spoke with Corinne Murphy was two to three weeks prior to the April 12 interview, when Murphy called to arrange for the interview. (CTtr, p. 155.)

This interviewer subsequently spoke with Deputy Attorney General Corinne Lee Murphy. Murphy advised that on January 9, 2012, she received an assignment to investigate a buyout of leave balances at the Parks Department. Murphy stated she then finished up another personnel investigation, and within a few days began identifying witnesses to be contacted in the new matter. Consistent with the April 2, 2012, email from Murphy to Taylor attached to the subject motion and declaration, Murphy advised that she first contacted Taylor to set up an interview about a week before the April 12, 2012 interview took place. Murphy reports (and the interview transcript reveals) that Murphy was accompanied during that interview by a Parks Department investigator, Angela Nowicki, and not by Jennifer Comilang. Murphy also advised that Parks Department personnel from its internal audits and investigations sections had begun investigating the vacation buyout matter before Murphy received the assignment. There is thus no record or other evidence (aside from Taylor’s vague and uncertain recollection) that she was contacted by anyone from the Department of Justice in January 2012, and Taylor indicated numerous times during the instant interview that she in fact had no recollection or idea whether that assertion was true.

Projecting a Surplus in FY 2009-2010 of General Fund Dollars

Taylor reports that, for the 2009-2010 fiscal year, Evans-Jones ran a projection which indicated there would be a surplus of \$20 to \$25 million unexpended general fund dollars at the end of the year. Taylor specified these were appropriated monies and not part of any undisclosed funds. Taylor stated that Lopez did not believe the projections were correct, and he relieved Evans-Jones of the responsibility for working the numbers. Taylor then worked the numbers and her projections also indicated a fiscal year-end surplus of \$20 million. Taylor states she too was then relieved of the responsibility, that David Saxby then worked up the numbers, and he also projected at least a \$20 million dollar surplus. (CTtr, pp. 54-58.)

When asked what was done with the surplus, Taylor reported that they called districts to inquire if money was needed for projects or purchases. Taylor states that they expended almost all the funds on building repairs, equipment and vehicles for park rangers, and other purchases such as computers. (CTtr, pp. 58-60.)

Off-Highway Vehicle Fund Balance Reports

Taylor stated she was neither aware of nor had she heard any concerns about disparities in balances reported to the DOF and SCO with regard to the Off-Highway Vehicle (OHV) fund. Taylor recalled that various loans had been made of OHV monies, and suggested such loans might explain such disparities. But she had never seen any numbers relating to and had no knowledge of disparities in reported OHV fund balances. (CTtr, pp. 162-164.)

Miscellaneous Additional Topics

Taylor noted that she hired David Saxby in 2009 to assist in the budget office as a retired annuitant. She expressed doubts about whether Saxby's subsequent CEA appointment as assistant deputy director of administrative services was appropriate and done in accordance with applicable rules. She ultimately conceded, however, that she was not versed in personnel matters and did not really know. (CTtr, pp. 173-175.)

Lastly, Taylor described the hiring of Saxby's son-in-law, Paul Furry, into the budget office as a staff services manager I. Taylor stated that there was no such vacant budget office position when Furry was hired, and that Furry never came to work in the budget office but was stationed in the Department's IT section instead. Taylor suggested the position was purportedly created in the budget shop, and then in fact assigned over to IT. (CTtr, pp. 175-178.)